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Supreme Court, U.S.
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CLERK

No. 97-969

In The

Supreme Court of the United States

October Term, 1997

DAVID KEANU SAI, Regent and Ambassador of the Hawaiian Kingdom, *pro tempore*,

Petitioner,

v.

WILLIAM JEFFERSON CLINTON, President of the United States of America,

Respondent.

On Petition For Writ of Mandamus

AMENDMENT TO PETITIONER'S MOTION FOR LEAVE TO FILE FIRST AMENDED PETITION FOR WRIT OF MANDAMUS, AND BRIEF IN SUPPORT OF AMENDMENT TO PETITIONER'S MOTION

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Petitioner In Pro Se

6 pp

NO. 97-969
IN THE UNITED STATES SUPREME COURT
OCTOBER TERM

DAVID KEANU SAI, Regent and Ambassador of the Hawaiian Kingdom, *pro tempore*, Petitioner,	AMENDMENT TO PETITIONER'S MOTION FOR LEAVE TO FILE FIRST AMENDED PETITION FOR WRIT OF MANDAMUS
vs.	
WILLIAM JEFFERSON CLINTON, President of the United States of America, Respondent.	

AMENDMENT TO PETITIONER'S MOTION FOR LEAVE TO FILE
FIRST AMENDED PETITION FOR WRIT OF MANDAMUS

Comes now PETITIONER, David Keanu Sai, Regent of the Hawaiian Kingdom, *pro tempore*, and serving as Ambassador to the United States, in Pro Se, hereby moves this Honorable Court to Amend Petitioner's Motion for Leave to file First Amended Petition for Writ of Mandamus and the Appendix to First Amended Petition for Writ of Mandamus filed on February 17, 1998.

This Motion is made pursuant to Rule 17(2) of the Rules of the Supreme Court and Rule 15(a) of the Federal Rules of Civil Procedure, and based on all records and pleadings herein and the Brief in Support of Amendment to Petitioner's Motion attached hereto.

DATED: Honolulu, Island of O'ahu, Hawaiian Kingdom, February 24, 1998.

DAVID KEANU SAI,
Regent and Ambassador of the
Hawaiian Kingdom, *pro tempore*,
in Pro Se

NO. 97-969
IN THE UNITED STATES SUPREME COURT
OCTOBER TERM

DAVID KEANU SAI, Regent and Ambassador of the Hawaiian Kingdom, *pro tempore*, Petitioner, vs. WILLIAM JEFFERSON CLINTON, President of the United States of America, Respondent.	BRIEF IN SUPPORT OF AMENDMENT TO PETITIONER'S MOTION

BRIEF IN SUPPORT OF AMENDMENT TO
PETITIONER'S MOTION

On or about January 20, 1998, Petitioner filed an amendment to the original Petition for Writ of Mandamus with this Court, and was inaccurately informed by this Court's Deputy Clerk, namely Francis J. Lorson, by correspondence, that the amendment "...must be returned since there is no provision within the Rules of the Court to amend a petition for a writ of mandamus." Letter from the Office of the Clerk to Petitioner, dated January 20, 1998.

On February 17, 1998, Petitioner did file a Motion for Leave to File First Amended Petition for Writ of Mandamus. Petitioner unwittingly presumed that Respondent's waiver, filed January 9, 1998, constituted a responsive pleading, and requested this Honorable Court for leave to file an Amendment to Petition for Writ of Mandamus. However, Petitioner later realized that Respondent's waiver was not a responsive pleading.

In this matter, the Respondent did not file a responsive pleading, neither in the form of an answer nor denial. What the Respondent did file was a waiver. A waiver is not a responsive pleading. Further, the Respondent has yet to file a responsive pleading in this matter. Thus, according to the rules that govern the procedures of this Supreme Court in original jurisdictional matters, Rule 15(a) of the Federal Rules of Civil Procedure, provides that the Petitioner is allowed to file an amended Petition at any time before a responsive pleading is served. It is essential that Petitioner be allowed to amend Petitioner's Motion, aforesaid, because leave of the Court is not required since the Respondent did not file a responsive pleading.

PETITIONER contends that this amendment to Petitioner's Motion is allowable under Rule 17(2) of the Rules of the Supreme Court for procedures in an original action, which provides that pleadings and motions prescribed by the Federal Rules of Civil Procedure is followed.

Rule 17, Procedure in an Original Action, Rules of the Supreme Court, provides in pertinent part:

> "1. This rule applies only to an action invoking the Court's original jurisdiction under Article III of the Constitution of the United States...
>
> 2. The form of pleadings and motions prescribed by the Federal Rules of Civil Procedure is followed. In other respects, those Rules and the Federal Rules of Evidence may be taken as guides. (emphasis added)"

Rule 15(a), Federal Rules of Civil Procedure ("F.R.C.P."), provides in pertinent part:

> "Amendments. A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is

served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed on the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the party's pleading only by leave of Court or by written consent of the adverse party; and leave shall be given when justice so requires. (Emphasis added.)"

Rule 15(a), F.R.C.P., clearly states that Petitioner may amend the Petition in this matter at any time before a responsive pleading is served by the Respondent.

Based on the foregoing points and authorities, PETITIONER respectfully submits to this Court an Amended Petition for Writ of Mandamus.

DATED: Honolulu, Island of O'ahu, Hawaiian Kingdom, February 24, 1998.

DAVID KEANU SAI,
Regent and Ambassador of the
Hawaiian Kingdom, *pro tempore*,
in Pro Se